Exhibit A

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY
DOCKET NO. MID-L-003809-18AS

KAYME A. CLARK and DUSTIN W. CLARK, Plaintiffs, v. JOHNSON & JOHNSON, et al., et al., Defendants.	104 HEARING TRANSCRIPT OF PROCEEDINGS (VOLUME I)

Place: Middlesex County Courthouse
56 Paterson Street
New Brunswick, New Jersey 08903

Date: May 29, 2024
9:02 a.m.

B E F O R E:
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polarized light microscopy, right?

A. Yes.

Q. Okay. And each of these microscopes have different methodologies that you would use if you were trying to identify whether something is really chrysotile, correct?

A. That is correct.

Q. And historically you have really considered yourself a TEM analyst, right?

A. Yes. I've done more TEM than anything.

Q. We'll talk a little bit about that when we get to your PLM qualifications.

Let's go back to slide 1, and I just want to put a little meat on the bones of the first point and I know you said you agree with that in general but I want to make sure that we have in the record the details of it, and so let's go to slide 5.

Okay. So I want to walk through and make sure that these are correct.

So, as I said, you were hired sometime in 2016 to look at Johnson & Johnson, right?

A. Yes, sir.

Q. Okay.

A. Maybe I misunderstood what you were asking.

Q. I just want to know what the variable is that changed, okay, that changed so that now you're identifying it. So, I'm exploring whether or not that is the use of concentration. So, that's what we're going to talk about now and, trust me, we'll be talking about Calidria. Okay?

A. The variable that changed is that we got our hands on the Calidria SG-210. That helped the analyst understand what they were looking for since the SG-210 has all the same characteristics of what we're finding in the chrysotile. That's what changed.

Q. Okay. Trust me, we're going to talk about that.

When was the first time your lab ever examined Calidria chrysotile?

A. The first time?

Q. Yep.

A. I think the first time is when we looked at some Visbestos some years ago under court order, and this was like in 2015 or '14, and we did PLM analysis there. And if you go to your Exhibit

but let's first do TEM because it's fairly quick.

So if we then go to slide 12, these are -- the things below are not chrysotile, they're amphibole. But within of the things that TEM can do is if you find a particle and you want to know is it talc, is it chrysotile, it can provide you detailed information on chemistry and on crystal structure to identify the proper mineral, correct?

A. Correct.

Q. Okay. In fact, you have said if you use a TEM, if you choose to use a TEM, it is fairly simple to tell whether or not you are, in fact, looking at chrysotile as opposed to talc, right?

A. Correct.

Q. Okay. And now let's talk about PLM and the additional dimension that adds and how it can then be manipulated as we'll eventually say by an analyst.

Before I get there, though, I want to just talk a little bit about your PLM qualifications. Okay? And so, slide 13.

Fair to say that as of 2019, which is right before you started to issue reports claiming to find chrysotile in Johnson & Johnson, you said that you personally do not do PLM analysis?

analyze those samples but it would take me all day so I don't do it.

Q. Okay. We'll talk more about that a little bit later but...

And if we look at the reports in which MAS has claimed to find chrysotile in Johnson & Johnson, you can see the names of the people who actually did the analysis, right?

A. Correct.

Q. And you are never listed as the analyst?

A. Well, the only people that is listed as the analyst is the person that goes from start to finish. When I sit down or there's a structure that there's some debate on it and I sit down and look at it and go through it, I don't put my name down for one structure. That's not fair.

Q. Okay. But, again, the analyst would typically be somebody like a Paul Hess, right?

A. Correct.

Q. Okay. But you, I think you just said you feel comfortable answering questions today about PLM dispersion analysis and how it's done at MAS, right?

A. Yes, sir.

Q. Okay. But if we go to the next step, just so you understand the process, slide 17 -- sorry, actually, it's slide 16 first.

So what the analyst will do is they will observe the particle under the microscope in the refractive index oil and they will determine what color they say they are seeing, right?

A. Correct.

Q. And then the next step on a very basic level, if we go to slide 17, is that that particular color will be associated with a wavelength of light, right?

A. Yes.

Q. And so, here if we take that sort of magenta-y color, that would be approximately 540 nanometers if you're converting it into a wavelength of light, right?

A. Yeah, 540, 530, right around there.

Q. Okay. And we can show which it is but the next thing you do, the next step, if we go to slide 18, is that you take that wavelength of light and considering what oil you're using and temperature and things like that, you can then convert it into what's known as a refractive index number or RI number, right?

A. Yes.

Q. Okay. And we're going to be working with those numbers a good bit today. And there is an image here of an individual, Dr. Su, and there are tables and methods that are used to perform this type of analysis that were developed by him, right?

A. This analysis?

Q. Yes, this kind of PLM dispersion staining analysis.

A. No. I would give the credit to Dr. Walter McCrone back in the early '70s.

Q. You use the Su tables as part of your analysis?

A. Yes. He gives them out when he audits your lab. So, we have them there. The analyst, especially Mr. Hess who's been doing this for, I don't know, 40 years, but we always use them because it's handy.

Q. Do you recognize Dr. Su in this courtroom?

A. I'm trying to remember the last time he came and audited our laboratory.

Q. I mean right there.

A. Right where?

Q. Right there. Can you please stand

A. I guess so.

Q. And so, we've seen that image before already. I wonder if we can call it -- it's CX-006.

So we were talking about this and I asked you about the illumination on this image and the dark golden colors on this image, right? You recall that?

A. Yes.

Q. And I said there are ways that you can use this type of microscope but white balance or purple illuminate your image to get what should be an appropriate PLM image for dispersion staining, and there are ways you can do that, right?

A. The illumination is controlled by just a small little wheel. These PLM analysts would not want to cut all that down because it would make it harder to see all the structures.

Q. So --

A. What you ought to show here is the talc under the same conditions as this, that's completely different.

Q. Okay. So, let's do that.

So now I'm handing up -- we'll mark this as D-10 -- a declaration that you had in an image that was taken in your lab at around the same

And, again, so, the key thing is what does the analyst actually see here as opposed to what does he report the color is. Okay?

And so if we just go to the plain image, I guess let's make it an exhibit next. It's already an exhibit.

Let's just go to the plain image first, and it's PDF 3, it's something that's already in evidence, which is the 2023/02/28 Valadez report. What D number?

MR. HYNES: Eight.

MR. DUBIN: D-8, okay.

BY MR. DUBIN:

Q. Let's put just the image itself up first. Is there a way we can Zoom on that a little bit to make it easier to see?

Okay. And so, when I first asked you about this without using a color bar or without doing anything else, you told me that you were observing in this particle a brownish gold, correct?

A. Correct.

Q. Okay. But then you give some data here -- if we can scroll back up, we can see RIs. You give some data at the bottom and there's an RI number. You see it? You see RI 1564, right?

A. Correct.

Q. And what you're able to do when you give us that piece of data is we can do an analysis in reverse to figure out what color your analyst was calling the particle. And so I just want to make sure we understand how that works in reverse. So let's start with slide 46. Actually, we can probably go to 47.

Okay. And so, for example, if you just give the RI which was 1564, we can consult the Su tables for the appropriate oil, and if we go to 4 -- I can't see -- if we go to 48, we've done this before, we can see that the color you're calling this is equivalent to the wavelength of light of 560, and if we go to slide 50, we can see that that color, the color that you are calling this particle for purposes of your analysis calling it chrysotile is this deeper purple, right?

A. It shows it on there but it's a blend. So that's where that should be -- should be in my opinion. There really is no purples I'm aware of. But that's where it falls. And I stick with it.

Q. And you stick with it because you've already admitted that if we go to, for example,

Q. I mean, we can just -- we've already marked ISO but do you recall it as 1.556. Otherwise, we can look back at ISO.

A. Okay.

Q. What?

A. I said okay.

Q. So, this is slide 19, we'll just call it up. It's already in. So they're reference values. So, ISO tells you what color it thinks that is, right?

A. Yes, for the 1866b.

Q. And so, it gives you this number 1.556, right, correct?

A. Correct.

Q. And if we look back at Longo slide 15, you can see that 1.556 corresponds to this magenta, right?

A. Yes, sort of magenta, I agree.

Q. And so, just comparing the two colors that you're calling this -- we can go to slide 54 -- you are claiming that this particle that you found in Johnson & Johnson that's on the left is more purple than standard reference chrysotile, right?

A. No, it's not more purple. It's just

a blend of those colors. And you have to be looking under the microscope also to dial it in, but it's not magenta and has no relationship to these 1866bs.

Q. And, remember when we were talking before that one of the reasons why chrysotile has a low birefringence value, for example, is that purple is not that far from blue on the color chart, right; that's why chrysotile has a low birefringence, right?

A. It has a low birefringence because that's the way the crystal is designed.

Q. But if I'm looking at a yellow particle and I treat it as a purple particle, then I'm creating low birefringence?

A. No, we're not creating anything.

Q. Well, there's no dispute, though, for example, if we look at slide 55, that when you do this calculation, when you eventually do the birefringence calculation that you rely on, the input in one of the two numbers that you're using for that calculation for this particle will be based on the refractive index that's associated with that dark purple, right?

A. That brownish color, yes.

Q. Okay. And so whatever result you get

you know, the very edge, fiber bundle, fibers on edge. But I'm not sitting at the microscope and this has been copied a few times, so it's kind of hard to debate you on it.

Q. Okay. So, slide 58, just so we can get the last particle, this is another particle that you're saying has a refractive index range of 1.565 to 1.568, so the circled range, again, treating this particle for your analysis as if it's magenta, right?

A. I wouldn't call it quite magenta, I'd call it more purple.

Q. And, I know one of the things that you've -- and you've mentioned it here, if we go back to slide 51 for a second, one of the things that you said and you tried to say is, well, sure, looks yellow, but I see some coloration around the edge and you said that again today, right?

A. Yes, sir.

Q. But, even if we look at just this one image and we can look at a lot more if we need to, there are things around this that are definitely talc plates, right? You're not claiming that's all chrysotile, these rounded structures, right?

A. No, of course not.

Q. And so, we see the same kind of red edge effect because of your imaging on the talc plates also, right?

A. We have to get it in the same orientation but some do, some don't.

Q. And I asked you about that initially before you started relying on the edge effects to call fibers chrysotile, I asked you about these edge effects and you told me that when you see them on particles, you don't know whether they were just an artifact or not, correct?

A. When was that?

Q. That was in your Eagles deposition.

A. Then that must be correct.

Q. Okay. And I asked you whether these red edges were an artifact and you said maybe, and you would have to check if your focus was off, right?

A. Yes.

Q. And so if we go back to 51, for example, I've already got it up, if you're claiming to see some sort of edge effect here that you're basing your purple color on but it's an artifact, then your entire analysis is wrong?

A. No, this analysis is not wrong. This

is chrysotile and I would need to be looking at the microscope here. I stand by this. It's not wrong. And we'll get to that more tomorrow, I guess.

Q. Well, slide 55, as you pointed out, that if this edge effect that you're basing calling this color, this purple, if that's just an artifact of the image and not what you need to be focusing on for dispersion staining, then when you do this calculation, you're putting the wrong number in there, it should be the number corresponding to the yellow?

A. That is not yellow and, you know, if it's this, if it's that. You know, chrysotile, the birefringence can get as high as 0.017. So, it is not wrong.

Q. Okay. So, I'm going to move now to talking about illumination in your Valadez work.

MR. DUBIN: Your Honor, I don't know if you prefer me to stop now and pick up after lunch or go on for a little bit, I'm happy either way.

THE COURT: Do you have any preference, Dr. Longo?

THE WITNESS: Probably might be a good time to break for lunch.

THE COURT: All right.

we're all talking about. So, slide 85.

So, Calidria is, actually, just -- is a brand name for a particular type of chrysotile asbestos, right?

A. Correct. It's like amosite. Amosite is not a mineral. It's the asbestos mines of South Africa. So, it's just a tradename.

Q. The name comes from California and the New Idria serpentine deposit, right?

A. That's right, good for you.

Q. Been there, so...

And the chrysotile from that area is typically considered to be a unique chrysotile formation that occurs there and perhaps one mine in Yugoslavia, right?

A. Correct.

Q. In fact, you said you've never seen, I think -- the chrysotile from there is completely different from chrysotile that you find in Canada, Vermont, Arizona, places like that; it's a different sort of morphology is what you said, right?

A. If you put Calidria in like a Ziploc bag, it looks like flour. If you take chrysotile from Canada or 30 other places, it's almost like cotton candy.

Q. As I understand it, your theory is that because laboratories out there don't understand what Calidria looks like, that's why they're supposedly missing chrysotile in all of these talc products, right?

A. That's what I think. There's got to be a reason that other people aren't finding it except with TEM are the ones I know about.

Q. And so, your theory is that this unique form of chrysotile that's found in this one location in California is the type of chrysotile or the appearance of chrysotile that is found in talc from Vermont, from Italy, from Montana, from every other mine, talc mine in the United States, that somehow this unique type of chrysotile structure that has only been found in this one mine in California has somehow jumped into talc from every area in the United States and from Italy, right?

A. Now you're being silly. I'm sorry.

No. It's not jumped in there. And also, these materials have been milled. You can go to the RG -- the SG-210 chrysotile without us doing anything has an average length of 10 microns, the RG-144 without us doing anything has any average length of about 80 microns. So, this not formed

CERTIFICATE OF OFFICER

I CERTIFY that the foregoing is a true and accurate transcript of the testimony and proceedings as reported stenographically by me at the time, place and on the date as hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney or counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

ANDREA NOCKS, CCR, CRR

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